

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS**

**Call to Order:** By **CHAIRMAN TOM KEATING**, on March 2, 1999 at 3:05 P.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Tom Keating, Chairman (R)  
Sen. Fred Thomas, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Dale Berry (R)  
Sen. Vicki Cocchiarella (D)  
Sen. Alvin Ellis (R)  
Sen. Bob Keenan (R)  
Sen. Walter McNutt (R)

**Members Excused:** Sen. Bill Wilson (D)

**Members Absent:** None.

**Staff Present:** Gilda Clancy, Committee Secretary  
Eddye McClure, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 98, HB 101, 2/23/1999  
Executive Action: HB 101

HEARING ON HB 98

Sponsor: REP. BRUCE SIMON, HD 18, Billings

Proponents: Peter Bloucke, Director, Department of Commerce  
Duane Steinmetz, Chairman, Montana State Board of Plumbers  
Robert Throssell, Montana Water Well Driller's Association  
Pat Byrne, Chairman, Montana Water Well Driller's Association  
Stuart Doggett, Manufactured Housing & RV Association  
Bob Chamberlin, O'Keefe Drilling  
Jo Hawkins, Board of Plumbers  
Bob Nault, Board of Plumbers  
Dick Grover, President, Montana Plumbing & Heating Contractors  
Cliff Wadsworth, Wadsworth Plumbing & Heating  
Mike Tehle, Master Plumber, Billings  
Carl Schweitzer, Plumber's Association  
Tim O'Donnell, Master Plumber, Billings  
Jerry Lyford, Master Plumber, Kalispell  
Don Kent, Journeyman Plumber, Bozeman  
John Pejko, Pipefitter's Local Union #41

Opponents: Derek Brown, Civil Engineer, Derek Brown Construction  
Dave Cogley, Contractor, Helena  
Gene Fenderson, Laborer's Union, and The Montana Joint Heavy & Highway Committee

Opening Statement by Sponsor:

REP. BRUCE SIMON, HD 18, Billings, said HB 98 was requested by the Board of Plumbers. This bill clarifies when a license is required to do plumbing work in the State of Montana. This bill wasn't necessary until recently. Due to a change in interpretation by the Building Codes Division within the Department of Commerce as to when a license is required, this bill became necessary. In the past if someone was hired as a plumber anywhere in the State of Montana, he had to have a plumber's license. If you do work on your own home you can be exempted, also mines, refineries, etc. There was some confusion in the law with regard to whether or not a home was on a public water system or on a well and septic tank if a license was required. The Department of Commerce Building Codes Division

took the position if a building was not on a public water supply, or a public sewer system, anybody could do the plumbing. They did not need a license.

**REP. SIMON** believes that position is absurd. If someone is building a half-million dollar house outside the city limits and are putting it on a well and septic tank, they would want to make certain the people who do that work are competent people and do that work properly, and the public's health and safety is considered. If it isn't the public, it could be the occupant's health because of cross-contamination. Clearly, in the past the intent has been if someone is doing work for hire in the State of Montana as a professional, whether a plumber or an electrician or a doctor, they should be licensed.

The exceptions are all in one place in the bill. Currently, in law the exceptions are scattered around so it can be confusing. This bill defines when and where a license is required to do plumbing work in the State of Montana.

#### **Proponents' Testimony:**

**Peter Bloucke, Director, Department of Commerce**, stated there was a difference of opinion between the interpretation of the law in the Building Codes Division and the Board of Plumbers. He believes it is important there be clarification as to when a licensure is required. As part of their attempt to resolve this issue, they submitted a request to the Attorney General for his interpretation of the existing statutes. The Attorney General determined a license was not required in those circumstances where there was not a public water system. This legislation will also extend the requirements for a licensed plumber to areas which were not previously in statute. He said the Department of Commerce does not take a position on that, but that is a job for the legislature. He handed out amendments **EXHIBIT (las47a01)**. The only two the Department of Commerce is offering at this time are amendments four and five. He explained both, stating number four makes the legislation easier to understand and number five lists exceptions in areas where there is not a licensed plumber and the county could request a variance from the Board of Plumbers.

**Duane Steinmetz, Chairman, Montana State Board of Plumbers**, explained **EXHIBIT (las47a02)**. This is a matter of accountability and competency. The plumbing license is the most exempted in the state and is the only profession which is limited to cities. The licensure creates a competency level within the industry. Without a license, they are accountable for their actions when making installations, and the homeowner or business owner has

little recourse. If something is not completed to code, if there is damage to the property, if there personal health problems integrated into the system, this is necessary to the public's health, welfare and safety. The original licensure law was written in 1947. Then the only facilities outside the cities were farm houses. Those farm houses are still exempted, the homeowner still has their exemption, the municipal resolution license is still in this legislation, all the other exemptions for mines, refineries, smelters, etc. still remain.

**Robert Throssle, Montana Water Well Driller's Association**, stated they would like to offer an amendment **EXHIBIT(las47a03)** and support this bill with the amendment, exempting the installation of pump, water line, and pressure tank, as part of the installation of the well. This dovetails with the laws on private systems not connected to any municipal or regulated systems and would allow the water well drillers to provide this service to the owner of the building. There may be a similar amendment offered.

**Pat Burn, Chairman, Board of Water Well Contractors, Great Falls**, supported the bill with the amendment. This amendment is critical to their well and pump system functions. They cannot do business without leaving this in.

**Stuart Doggett, Manufactured Housing & RV Association**, also supported this bill. On line 15 and 16 they requested an amendment regarding the inclusion of manufactured housing. He clarified according to state definition the members of his association sell manufactured homes, not mobile homes as they were called prior. The dealer has always been able to install a home and hook up the plumbing as is stated in the bill. The intent was to make sure that continued as has been the case in law. The homes built pre-1976 were considered mobile homes.

**Bob Chamberlin, Montana Water Driller's Association, O'Keefe Drilling**, stated they are in support of this bill.

**Jo Hawkins, Montana Board of Plumbers**, submitted **EXHIBIT(las47a04)** and **EXHIBIT(las47a05)**.

**Bob Nault, Plumbing & Heating Contractor, Montana Board of Plumbers, Havre**, explained he has been on the Board of Plumbers for 10 years. His term will be up this May. He handed out **EXHIBIT(las47a06)**. In the past ten years, they have had people from the city, people in the county, and people who have single-family dwellings who move into a house and live in it a year or so, and they have a plumbing problem. At that point the builder tells them he is no longer in business. They come to the Board

of Plumbers wondering what they can do to get the plumbing fixed. The Board has to tell them if it is on a well and a septic tank and is a single-family dwelling, they are out of luck. They have to find an attorney and sue the General Contractor, and maybe he can drag in the plumber who did the work. Most of the time it isn't the plumber who did the work, it is the home builder, maybe the well driller, or maybe a hardware man. The proposed bill is very simple and they would like to clarify the plumbing licensure law. They would like the law to read if someone does plumbing in the State of Montana, they must be licensed. In every other aspect of life, we have to be licensed. This time has come for clarification of a licensed plumber.

**Dick Grover, President, Montana Plumbing & Heating Contractors, Missoula,** submitted **EXHIBIT(las47a07)**.

**Cliff Wadsworth, Wadsworth Plumbing & Heating, Great Falls,** explained to the Committee he was called to repair the plumbing in some homes which another plumber had installed. They were fairly new houses. He submitted photos of each repair **EXHIBIT(las47a08)** and explained each problem.

**Mike Tehle, Master Plumber, Billings,** stated his situation is similar to the last proponent, but he repaired mobile home projects which were not tied in correctly to the main sewer line. Usually six months to one year after it has been installed, the homeowner will call and report he has a terrible odor, which is raw sewage under the trailer. The installers would use duct tape to tie the drain together, and there would be a 4" gap because there wouldn't be enough pipe to tie it together. He is in favor of HB 98.

**Carl Schweitzer, Plumber's Association,** asked for the Committee's support of this bill. He mentioned this is simply a clarification of when a plumber is needed.

**Tim O'Donnell, Master Plumber, Billings,** stated he is in favor of this bill the way it was originally written.

**Jerry Lyford, Master Plumber, Kalispell,** related his is a member of the State Board of Plumbers and he is in support of this bill. He has no problem with the amendments, however, he believes those amendments could be handled administratively and not muddy up the bill. He mentioned there should be clarification for licensed plumbers working on those homes on wells and septic tanks as well as those homes on a public water system so that everyone is working on the same playing field.

**Don Kent, Journeyman Plumber, Bozeman,** said he has been a licensed Journeyman Plumber since 1965 in the State of Montana, actively working each day. He stated there are more and more wells and septic tanks installed which are not involved in agriculture. He does a lot of work at Big Sky and there are houses valued in the multi-million dollar price category. He believes the Board of Plumbers should have some sort of handle on people who are installing plumbing on any residence. The people of Montana should be protected as well as the potential buyers of these homes. He urged support of this bill.

**John Pejko, Pipefitter's Local Union #41,** supported this bill. He alleged the language regarding the 'pump to the pressure tank' should be included.

*{Tape : 1; Side : A; Approx. Time Counter : 33 - 42}*

**Opponents' Testimony:**

**Derek Brown, Civil Engineer, Derek Brown Construction,** conveyed he is a formerly licensed plumber and a non-licensed General Contractor because he cannot buy a license in this State. He is opposed to the bill only as it stands. With the amendment regarding the water systems, he is in favor of the bill. He is in favor of licensing. In clarifying the plumbing licensing, we also need to clarify where plumbing begins and ends. As a civil engineer, he is very much aware of public safety. In a private system, the well cannot be separated from the pressure tank, it is one component and a valve cannot be put between the two. The existing plumbing laws state this has to be installed at least 20 feet outside the residence. That was established because houses are set back 20 feet from the curb. That is where the curb box is installed which separates the plumbing from the municipal water system. On an individual system, a valve cannot be installed 20 feet from the house which separates the plumbing from the well. The systems do not operate that way. On a private system, the water system ends at the pressure tank, and the plumbing takes over.

As a General Contractor, the other issue is the timing of doing construction. The installation of the well and pressure tank is not completed at the same time as the installation of the plumbing. This can become a problem, because as the existing law states, the plumber has to install 20 feet outside the house. Does the well driller then set the pump or the line 20 feet out then the plumber takes over from 20 feet? This becomes a real problem.

**Dave Cogley, General Contractor, Helena,** stated he had a problem trying to decide if he was a proponent or an opponent of this bill. He decided to be an opponent simply because he is from a rural area where plumbers are difficult to come by. It costs to drive out 100 miles from Miles City to Jordan. He doesn't think it is feasible for a plumber to drive these distances and this bill will not help those in rural areas to have to hire a licensed plumber for their work. He supports the amendments, especially the water well connection. Since this bill may extend out into the rural areas, the County Commissioners should be involved in that waiver process. This was probably an oversight when the bill was drafted. There has been no amendment expanding license requirements to a person working in the field of plumbing anywhere in the State. There was an amendment which has been defeated in prior sessions. He hasn't heard of any pressing need regarding what has changed in the area of public health and safety, which we need the licensing requirement to reach out into those remote areas. He doesn't have major problems with the bill but believes it will be a burden for the rural areas.

**Gene Fenderson, Laborer's Union, and The Montana Joint Heavy & Highway Committee,** stood in opposition to this bill as written. He handed in **EXHIBIT(las47a09)**, and affirmed the letter brought out some good points. He also proposed an amendment **EXHIBIT(las47a10)**. A lot of General Contractors who are in the utility business have completed temporary hook-ups to existing water systems for over 60 years. In their interpretation of this bill, General Contractors could no longer hook-up temporary services to build houses where a line is being replaced. Under Section 1, subsection (d) of the bill there are exemptions which include cities, towns, water districts, and water user associations extending their own water and sewer mains. This is not the problem. There is no temporary hook-ups when they are extending. The temporary hook-ups are installed when replacing these lines for the use of the public at that time. **{Tape : 1; Side : B; Approx. Time Counter : 42 - 45}** He explained how his amendment in exhibit 10 would take care of the problem.

**Mike Foster, Montana Contractor's Association,** explained their membership is usually thought of as highway contractors, the building of roads and bridges for the State. They also have building contractors and municipal utility contractors who perform the kind of work Mr. Fenderson referred to, for instance, a city water line. This is a very simple bill and easy to understand. It has also been expressed this bill has some confusing elements. He said his membership has looked at this bill and has taken the side of being somewhat confused by its meaning. He believes the language primarily refers to residential homes, however, his membership is concerned it also

relates to those situations of a contractor installing a water line for a major city in Montana. When there are temporary hook-ups it should be put into statute that would have to be performed by a licensed plumber, when historically outside the 20 foot mark it has been performed by laborers. If the amendment Mr. Fenderson has proposed is adopted, he believes his membership would stand in support of this bill.

**Jerry Christison, Building Materials Sales and Installer**, said he is in favor of this bill with the amendments. Without the amendments, the bill would be too difficult to follow.

*{Tape : 1; Side : B; Approx. Time Counter : 45 - 79}*

**Questions from Committee Members and Responses:**

**CHAIRMAN KEATING** asked **REP. SIMON** if he had seen all the amendments already drafted.

**REP. SIMON** responded he has seen three sets of amendments.

**CHAIRMAN KEATING** inquired if all the proponents read all the amendments since there was testimony they were in favor of the amendments.

**REP. SIMON** believed there was some confusion. The water well people said they would support the bill with the amendments offered by the water well drillers. There were also amendments offered by the Department of Commerce. Regarding the amendments Mr. Fenderson spoke of, most of the people who support the bill with amendments were talking in terms of the water well drillers with the exception of the opponents. The opponents who spoke were referring to the amendments which were proposed by Mr. Fenderson.

**CHAIRMAN KEATING** asked **Dr. Bloucke, Department of Commerce**, to explain his amendments.

**Dr. Bloucke** stated they have five amendments on their sheet. They are only requesting the last two, numbers four and five. Number four would change the definition of an agriculture building to read the same definition which is currently in the building codes administrative rule and is also currently being used by the Board of Plumbers. They feel this is a definition which is easier to use to determine whether or not a facility meets this criteria. The second amendment, number five, would



allow County Commissioners to be able to petition the Board of Plumbers for an exception in an area where no plumber was available. We shared these with the attorney for the Board of Plumbers, but he is unaware what the Board's position is on this.

**CHAIRMAN KEATING** asked **Jerry Christison** if he was in a rural area and was aware of the amendments which pertained to County Commissioners exempting the work.

**Mr. Christison** responded he was in a rural area and the amendment will satisfy him as long as the people putting the well system in can deal with it.

**CHAIRMAN KEATING** asked if anyone may change their position due to amendments they were unaware of.

**Dick Grover, President, Montana Plumbing & Heating Association,** remarked the laborer's amendment was introduced after he spoke and he would not be in favor of that amendment. It allows licensed people to install temporary services. His company also does that work, using licensed plumbers. Not all the work has been completed by non-licensed labor. He has seen problems with temporary systems which have been installed by non-licensed laborers. The problem is they do not stop at the 20-foot limit, but run temporary services in and connect to the houses. He has heard the State of Montana cannot afford to pay a plumber instead of a laborer to do that work. His comment is it is no wonder we are 51st in the Nation regarding average wage. We cannot pay the person who is trained and qualified to do the work which would make such a difference in the total cost of the job.

**Duane Steinmetz, Board of Plumbers,** mentioned they were not aware of the same amendments from the laborers, nor do they support that amendment. That amendment has nothing to do with the issue which is being addressed in this bill. From the diagram on exhibit 2, there is no water main or sewer main on that system. It has nothing to do with this bill.

**CHAIRMAN KEATING** asked **Mr. Steinmetz** to address the comments from the civil engineer who said the 20 feet really doesn't do anything of itself, but there should be a point of connection where a plumber begins.

**Mr. Steinmetz** answered to his knowledge, the Board has never received a complaint against a well driller on any of their components. That is an area which has never been a source of contention. It is his understanding this was a complaint with the Board of Electricians, but not with the Board of Plumbers.

**CHAIRMAN KEATING** asked **Derek Brown** how these amendments affect him.

**Mr. Brown** responded the municipal systems declared the 20 feet, which was typical on set-backs.

**SEN. BARTLETT** asked **Dr. Bloucke** in relation to the amendment he would change as defined as a farm or ranch, would more parcels or fewer parcels be subject to plumbing by licensed plumbers with this change?

**Dr. Bloucke** deferred the question to **Eric Fehlig, Attorney, Division of Building Codes**, who stated it would be difficult to say if there would be more or less because both the Board of Plumbers and the Building Codes Division is currently using that definition, as proposed in the amendment. The definition which is proposed in the bill really does not bring us anywhere, it is trying to define what a farm or ranch is. Just stating it has something to do with agricultural operation, really doesn't help with defining with what a farm or ranch is. Their proposal is to try to make it so there isn't any argument regarding what is a farm or ranch, it is either 160 acres or 5 acres if you are classified as agricultural for tax purposes. It brings in any legitimate farm or ranch operation, the agricultural operation would be included, and maybe some of the non-traditional farm or ranch operations. For instance a green house which sets of two acres and grows \$3,000 in tomatoes per year would be considered a farm or ranch because it is classified agricultural for tax purposes.

**SEN. BARTLETT** asked as the bill came to the Committee from the House, would a farm or ranch residence be required to use a licensed plumber?

**Mr. Fehlig** answered "no".

**SEN. BARTLETT** asked if the amendment proposed by the Department of Commerce would apply to other buildings on that same farm or ranch beyond the residence?

**Mr. Fehlig** answered "correct". It defines what a farm or ranch is. The plumbing code specifically refers to residence on the farm or ranch. Building codes talk about farm or ranch buildings. They are trying to define what a farm or ranch is as a parcel of property. Any true farm or ranch residence would be excluded.

**SEN. ELLIS** inquired if the reason the definition is used for subdivision review, if a parcel is larger than 160 acres, it is

assumed a farm or ranch. No matter what the agricultural income is, below 160 acres they have prove income and go through subdivision review, is that correct?

**Mr. Fehlig** responded that is correct. One of the other reasons they are proposing this is they haven't always had unity between their Building Codes Division and their Board of Plumbers. This is an instance where they do agree.

**SEN. ELLIS** mentioned **Dave Cogley's** presentation seemed the least biased of anybody's and he would like it made clear if the Board of Plumbers want to expand the area in which a license is required because of safety. They adamantly say they are not going to do anything with farms and ranches. He asked **Mr. Cogley** how they justify that position.

**Mr. Cogley** responded that exemption is already in current statute as far as a specific farm or ranch exemption. He is not sure anything is being changed there. They are extending licensure requirements.

**SEN. ELLIS** asserted if there is a compelling reason to include these parcels which are not farms and ranches, there should be a compelling reason to include them all.

**Duane Steinmetz** remarked this language, as proposed by the Department of Commerce, is already in administrative rule. There is an exemption for farms in statute, but they needed a definition of what a farm really was, so that is what they used. It is a re-print of the definition put into statute.

**SEN. ELLIS** stated he understands the definition, but he does not understand the fact they are trying to expand the turf of the Board of Plumbers to include housing outside of urban areas which aren't farms and ranches. The Attorney General has already ruled they are not included if they are not on a public water system. If there is a compelling reason to do that, why are you leaving the exclusion for farms and ranches intact?

**Mr. Steinmetz** responded it is because they do not believe there are new farm and ranches being built in Montana. The farms and ranches which existed in 1947 are the same farms and ranches he grew up on. We are seeing new ranches, we are seeing new subdivisions sprouting out in rural areas where 200 to 300 homes will built on well and septic, stubbed out for community wells and community sewage systems at a later date, maybe a year or maybe ten years down the road. Those are the areas of concern. The majority of the new construction of residential plumbing is not inside incorporated cities because they are all filled up.

They are outside those cities, then the cities are after-the-fact connecting to those installations which were not completed by competent plumbers. A problem with one installation can affect everybody on the circuit. There are 17 plumbing statutes, that being one. He cited other plumbing laws subject to the Attorney General's opinion and said he does not understand how they will work with this situation. He also does not know how they can answer to the public who complains about their homes being ruined. That is why the license statute must be clarified, so that all the statutes mesh together.

**SEN. COCCHIARELLA** asked **REP. SIMON** which amendments work with the bill to make it better.

**REP. SIMON** responded regarding the amendments offered by the Department of Commerce, only four and five are being proposed. Amendment number four is trying to give definition to farm and ranch. Too many people are claiming they have a ranch with five acres and a horse. Amendment number five, proposed by the Department of Commerce wants to insert the County. There are references in the bill to connecting to a public water supply. That is confusing. Public systems are the cities, towns, board of directors, or managers of water or sewer systems. By adding 'County' another layer is being added to state County Commissioners could say the entire county can be exempted from having a license. By adding that in, a problem is created. He suggested the Committee move with caution on those amendments.

Regarding the amendments proposed by the water well drillers, the water well drillers are licensed. **REP. SIMON** believes they do a very competent job and he has no problem with their amendments. There was no intention of bothering the water well drillers in the first place.

As for the laborers, part of this amendment **REP. SIMON** has no problem with. In working with the cities, towns, and public water systems, the words 'extending, repairing or replacing' are appropriate. That work is completed by the laborers and nothing is intended to change the bill. But, the following part of the amendment which includes the temporary connections are a problem. You can temporarily die from drinking bad water from a temporary water system. Connecting a water system which has a potential for being contaminated can cause problems, whether it is a temporary or permanent system. Why are the mains in the street being replaced if they are permanent? The fact is they are all temporary one way or another. They last for a period of time then have to be replaced. While they are replacing these lines, they install temporary water systems. Nothing would stop the contractors from building the temporary water system as long as

they did not encroach the 20 foot limit. The 20 foot limit is in current law. In 1985 the '20 foot language' was adopted because it was an accommodation to utility contractors to get out of the public right away. **{Tape : 2; Side : A; Approx. Time Counter : 79 - 106}** He believes most the utility contractors are very careful and do a very good job. But, there are also people who don't do a good job.

Mr. Gray (**EXHIBIT 9**) hired a subcontractor last year who did not have any plumbers on board. That subcontractor piped off a fire hydrant, installed a simple spring check instead of a back flow prevention devise which was required by the contract, then went into a storm sewer and connected to a fire hose inside the storm sewer, ran the water line underneath the street to the other side, back into plastic pipe and delivered water to a number of residents. It is not legal to run through a storm sewer with potable water. They didn't have the proper back flow prevention devise. There were complaints made to the Board of Plumbers about non-licensed practice. The subcontractor installs these back flow prevention devises upside down and sideways. They do not function in a horizontal position sideways. They must be upright in order to work. They also were installed in a vertical position. They do not work in that position either.

This year the City of Billings changed their contract to read they will make the connections, not the contractor. The City of Billings does not have any plumbers on their staff so they were in violation of the licensure laws. The new contract also requires there has to be a reduced pressure back flow prevention devise.

A plumber makes the final connections only. Before that plumber, whose license is on the line, makes that final connection, he would review the temporary system which the utility contractor had put together.

**REP. SIMON** explained it has never been his intention to take work away from the contractors or laborers. This bill doesn't change the 20 foot requirement. The Board of Plumbers recently issued a declaratory ruling stating that if a person does work within 20 feet of the foundation in installing temporary water systems, he must be a licensed plumber. He is adamantly opposed to the temporary water system amendment.

**SEN. THOMAS** asked **Duane Steinmetz** regarding amendment four from the Department of Commerce, do you favor the parcel of land definition?

**Mr. Steinmetz** answered absolutely because now they would have an administrative rule.

**SEN. THOMAS** remarked the current law references a definition, so something which is already defined in law is being re-defined.

**Melody Brown, Attorney, Board of Plumbers,** answered current law just states an exemption is given to a public water supply and sewage disposal system. The definition in this amendment is in rule only.

**SEN. THOMAS** inquired when the law currently states 'farm and ranch', why do we define that in rule when it is already defined in statute?

**Ms. Brown** explained when the Board of Plumbers are questioned as to whether or not their ranch is exempted, they use the definition in statute in administrative rule. She was referring to Building Code and not the Department of Commerce amendments. The Board of Plumbers is happy with the 'farm and ranch' definition being defined in rule.

**SEN. BARTLETT** asked **Mike Foster** in reference to **REP. SIMON'S** understanding of the amendments which he supported and were suggested by **Mr. Fenderson**, what is the contractor's concern?

**Mr. Foster** responded he hoped what he said echoed what **Mr. Fenderson** said. Because of his concern of the temporary water hook-ups, the contractors decided they would either have to oppose the bill or try to amend it in such a way it clears up that confusion of concern about the bill.

**SEN. BARTLETT** asked **Mr. Fenderson** what his intent with the amendments is.

**Mr. Fenderson** responded they are not interested in any type of plumbing, or what the rules or regulations have to do with what is inside the house. They are only interested in the exterior of the home up to the point of the replacement of the building, the replacement and repair of main line water, sewer, and storm drains. Their General Contractors are some of the largest in the State, such as Washington Construction, Bernard, Slutton, Copp, etc. Basically, they build temporary water hook-ups. Those temporaries, if installed properly, are designed by engineers, and approved by the Water Quality Bureau. His members want to maintain the work they have been doing for 50 to 80 years. In **Mr. Gray's** case (**EXHIBIT 9**), he claims he tried to sub-contract that out to a plumbing shop and the plumbing shops weren't

interested. The laborers would like to install the main lines and temporary water hook-ups.

**SEN. BARTLETT** asked **Mr. Steinmetz** if there are enough plumbers in the State of Montana to meet the demand there might be if it is clarified the jurisdiction takes a licensed plumber outside of city limits. She does not want to get calls from people trying to get houses built in the valley or around the Unionville area who can't get plumbers after this bill goes through.

**Mr. Steinmetz** answered the Department of Labor puts out projected needs for all occupations in the State of Montana. The copy of the 1997 projection estimated there was a need for 635 plumbers in the State. We now have well over 1300 licensed plumbers in the State. They are going to be located where the work is. The Board of Plumbers has requested temporary licenses from several cities and they have granted them unless there were plumbers in that town. The Board protects the public but they do not regulate the industry.

**SEN. THOMAS** said as the bill reads now, it references 'farm and ranch' in 39-3-402 MCA. He asked **REP. SIMON** if he is comfortable referencing that in the bill.

**REP. SIMON** responded there are two different definitions. That one talks about producing agriculture products or raising animals. The Department of Commerce amendment references the rules in Building Code is the definition in the bill, rather than the definition already in statute. This definition would be more appropriate.

**SEN. THOMAS** explained his concern the proposed definition uses 160 acres, and regardless if a person has two horses on ten acres or 20 horses on 160 acres, he is still watering horses. He does not think 160 acres should establish a farm or ranch, because both use plumbing.

**REP. SIMON** said current law states a farm or ranch building are exempt, so how far does that extend? Is the home on the farm and ranch exempt or not? He tried to make this apply to the residences on the farm and ranch building, but the House would not accept it in that form.

**SEN. THOMAS** then asked **REP. SIMON** if he wanted this bill to have this 160 acre threshold in it.

**REP. SIMON** responded he is trying to get a definition of a farm and ranch.

**SEN. THOMAS** inquired if he is saying a house on a farm or ranch is exempted.

**REP. SIMON** said 'yes'. Under the current definition, a farm or a ranch is exempt.

**SEN. THOMAS** asked what difference does it make if a man has 160 acres or 10 acres, if the house is exempt, it is exempt.

**REP. SIMON** claimed he would have preferred not to exempt the residences but he could not get the bill out of the House without agreeing to having some definition for rural settings. In those cases the buildings, including the house is exempt.

**Melody Brown** added the current definition of farm or ranch in the rule is 160 contiguous acres under one ownership, or otherwise that is classified as agricultural under Title 15, Chapter 7, Part 2. That has something to do with how much income you make.

**Closing by Sponsor:**

**REP. SIMON** closed by stating he hopes the Committee will take the amendments into consideration because they are important. The Board of Plumbers has taken the position for years if a person is doing plumbing work in the State of Montana for hire, he must be a licensed plumber. The Attorney General's position changed that. This caused confusion. The Department of Commerce Building Codes Division used that to say if you're not working on a public water supply, you are exempt. This is not an expansion of the law, but clarification. This bill gets to the basics. This bill is about public health and safety.

**EXHIBIT (las47a11)** was mailed to the Committee after the hearing.

***{Tape : 2; Side : A; Approx. Time Counter : 106 - 117}***

**HEARING ON HB 101**

**Sponsor:** REP. SYLVIA BOOKOUT-REINICKE, HD 71, Alberton

**Proponents:** Jan Sensibaugh, Department of Environmental Quality  
Duane Steinmetz, Board of Plumbers

**Opponents:** None.

**Opening Statement by Sponsor:**



**REP. SYLVIA BOOKOUT-REINICKE, HD 71, Alberton,** mentioned this bill is a house-keeping bill. When the Department of Environmental Quality and the Department of Public Health & Human Services reorganized, something was forgotten. The person who was assigned to work on this from the Board of Plumbers was transferred to the Department of Environmental Quality from the Department of Public Health & Human Services so this situation slipped through. The Board of Plumber's representative is one person from the Department of Environmental Quality who has experienced the regulation of drinking water systems.

**Proponents' Testimony:**

**Jan Sensibaugh, Department of Environmental Quality,** stated House Bill 101 is truly a house-keeping bill for the Department of Environmental Quality and the Department of Public Health & Human Services. **EXHIBIT (las47a12)** During reorganization of the Departments, this statute was changed to specify the member on the Board of Plumbers was to be a Sanitary Engineer representing the Department of Public Health & Human Services. However, the Sanitary Engineer job classification is no longer used in the State classification system. At the time of reorganization, the representative was an employee of the Department of Health & Environmental Sciences who went to the Department of Environmental Quality so employees of the Department of Environmental Quality have served at the appointed agency representative to the Board of Plumbers since reorganization. When the problem was identified, both Departments provided the Board of Plumbers with options to change the membership of representation on the Board. This bill represents the option the Board of Plumbers chose, and it is fully supported by both Departments.

That option was that the representative be from the Department of Environmental Quality and have experience in the regulation of drinking water systems. This will allow the Department to select a representative to have strong knowledge of the public health significance of drinking water systems and the threats that improper design and construction impose. In addition, this bill deletes the condition that the Department's representative serve as a Secretary to the Board. This provision is no longer needed, because the Department of Commerce provides that service to the Board and has for some time. This bill ties up a remaining loose end from the reorganization of the Departments and brings this statute up to date. The Department of Environmental Quality requests the Committee's support of this bill.

**Duane Steinmetz, Chairman, Board of Plumbers,** stated they fully support this bill.

**Opponents' Testimony:**

None.

**Questions from Committee Members and Responses:**

None.

**Closing by Sponsor:**

REP. BOOKOUT-REINICKE closed by asking for support of this bill.

**EXECUTIVE ACTION ON HB 101**

**Motion/Vote:** SEN. THOMAS moved that HB 101 BE CONCURRED IN.  
Motion carried unanimously.

**Discussion on HB 98:**

SEN. THOMAS asked permission for a short discussion on HB 98. His position is that a home is excluded from hiring a licensed plumber, whether it be on a farm or a ranch or in town. He understands the farm and ranch exclusion pertains to farm and ranch facilities. It does not state facilities but that is the purpose of it. Whether or not a home is on a farm or ranch, it is exempted if a person does his own work. He believes the Committee needs to leave that definition in the bill on line 21, because it does not have the 160 acre deal. This still goes back to watering animals, not human consumption except in their house. Whether a person is watering five sheep or 500 sheep, this law is not there to protect the animals, it is in place to protect human beings.

SEN. ELLIS read the definition SEN. THOMAS preferred. SEN. ELLIS believes they want to use the other definition because it is a threshold for subdivision law.

SEN. BERRY said he felt 160 acres in some counties was appropriate, but not in other places. He does not know if this would apply to someone who wanted to plumb their own home.

SEN. THOMAS stated this pertains to a farm and ranch, not your own home, because the house is under Section A. He does not want

the 160 acres in the bill, because what would it matter what size the farm or ranch is?

**CHAIRMAN KEATING** explained the bill says either 160 contiguous acres of land or agricultural land and the building in which the plumbing installation is located must be in conjunction of the agricultural activity. He asked **Melody Brown, Board of Plumbers**, if that meant the home.

**Ms. Brown** said the home and the buildings are exempt. They have no problem with what **SEN. THOMAS** wants to do. She believes this amendment is a threshold for subdivisions and they are not the Board of Plumber's amendments.

**SEN. BARTLETT** remarked she thinks the definition in Title 39 will offer more opportunity to argue about whether something is a farm or ranch or not, and whether there should be a licensed plumber on it or not. The 160 acres is only one way of identification this offers. Regardless of size, if the parcel produces agriculturally at a certain revenue level, this is more of a clarification.

**SEN. THOMAS** contended his point is we do not need a subdivision law nor a tax law in this bill.

**SEN. BARTLETT** alleged the definition in Title 39 is a labor law, not a plumbing law.

**SEN. THOMAS** maintained this is about agriculture activity.

**CHAIRMAN KEATING** explained there was another meeting at 5:00 p.m. that several Committee members needed to attend and the Committee would have to adjourn.

#### **ADJOURNMENT**

Adjournment: 5:02 P.M.

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SEN. TOM KEATING, Chairman

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GILDA CLANCY, Secretary

TK/GC

**EXHIBIT** (las47aad)